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May 12, 1999

EX PARTE OR LATE FILED

EX PARTE PRESENTATION

Magalie Roman Salas, Esq.  
Secretary  
Federal Communications Commission  
The Portals  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

RECEIVED  
MAY 12 1999  
EX PARTE OR LATE FILED  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: *Petitions Seeking Preemption of Certain Provisions of the Arkansas  
Telecommunications Regulatory Reform Act of 1997*  
*CC Docket No. 97-100*

Dear Ms. Salas:

On May 3, 1999, the Arkansas Public Service Commission ("Arkansas PSC") issued the attached order resolving the outstanding issues presented for arbitration by ALLTEL Communications, Inc. and Southwestern Bell Telephone Company. See Order No. 13, ALLTEL's Petition for Arbitration of Unresolved Issues with Southwestern Bell Pursuant to § 252(b) of the Telecommunications Act of 1996, Docket No. 99-015-U (Ark. P.S.C. May 3, 1999) ("Order"). In this Order, the Arkansas PSC approved the prices to be charged for unbundled network elements "pursuant to Sections 251 and 252 of the 1996 Act." Order at 3. This Order represents simply the latest confirmation that nothing under Arkansas law prevents the Arkansas PSC from fulfilling its duties under the Communications Act of 1934, as amended.

In accordance with the Commission's rules governing ex parte presentations, I am providing two copies of this notice and the Arkansas PSC's Order. Thank you for your consideration.

Respectfully submitted,

Attachment

cc: Michelle Carey, Esq.  
Jonathan Reel, Esq.

No. of Copies rec'd 012  
List A B C D E

## ARKANSAS PUBLIC SERVICE COMMISSION

MAY 3 12 22 PM '99

FILED

IN THE MATTER OF ALLTEL )  
COMMUNICATIONS, INC.'S PETITION FOR )  
ARBITRATION OF UNRESOLVED ISSUES WITH )  
SOUTHWESTERN BELL TELEPHONE COMPANY )  
PURSUANT TO §252(b) OF THE )  
TELECOMMUNICATIONS ACT OF 1996 )

DOCKET NO. 99-015-U  
ORDER NO. 13

ORDER

On January 20, 1999, ALLTEL Communications, Inc. (ALLTEL) filed a Petition for Arbitration of Unresolved Issues with Southwestern Bell Telephone Company (SWBT) Pursuant to §252(b) of the Federal Telecommunications Act of 1996 (1996 Act), 47 U.S.C. §252(b). In its Petition, ALLTEL sought compulsory arbitration to establish the terms and conditions of an interconnection agreement between ALLTEL and SWBT.

On February 4, 1999, the Commission entered Order No. 2, designating Sarah M. Bradshaw, Administrative Law Judge, as the arbitrator in this Docket. The Commission scheduled the arbitration hearing to begin on March 23, 1999. On February 12, 1999, SWBT filed its Response to ALLTEL's Petition. The public hearing in this Docket was held on March 23 and 24, 1999. Both parties presented the Commission with significant evidence supporting their respective positions. Negotiations between the parties continued after the hearing. On April 9, 1999, a Resolution Proposal was submitted to the Arbitrator for approval which would resolve each and every outstanding issue involved in this Docket.

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In the Resolution Proposal, the parties have stipulated a resolution to Issue Nos. 1, 2, and 4-8. The parties have also stipulated to contractual language that will be included in the parties interconnection agreement that exempts traffic originated to Internet Service Providers from the local reciprocal compensation arrangements of the agreement. Regarding Issue No. 3, phrased: "what prices should be established for unbundled network elements" the parties have submitted a document entitled "Cost/Pricing Stipulation." The Cost/Pricing Stipulation is "supported" by ALLTEL and is "unopposed" by SWBT. In the Cost/Pricing Stipulation ALLTEL stipulated as follows:

1. ALLTEL Communications, Inc. ("ALLTEL") stipulates that the rates set forth in Attachment "A" are supported by the evidence and information made available in this matter and that to the extent that Attachment "A" includes rates that were not specifically addressed by ALLTEL in the hearing, ALLTEL has examined the derivation of those prices and stipulates that such rates were determined under generally the same SWBT cost methodology and approach as used to develop the rates addressed by ALLTEL in the proceeding.

2. ALLTEL stipulates that the Commission should adopt this Stipulation, *in toto*, including a finding of cost satisfaction as described in paragraph 5 and as such it will not appeal the Commission order, and if the Commission does not adopt the rates set forth on Attachment "A", the Parties fully reserve all of their appeal rights.

3. ALLTEL stipulates that if the rates set forth on Attachment "A" are adopted by the Commission, the rates, methodologies, inputs and assumptions utilized therein will not be precedential in any other jurisdiction or, except as provided herein, any other or subsequent proceedings in this jurisdiction.

4. ALLTEL stipulates that the rates set forth on Attachment "A" will be effective only for the duration of the interconnection agreement between the parties that results from this arbitration and that at the termination of any such interconnection agreement, the parties are free to negotiate and/or arbitrate rates with no restriction on what rates the respective parties can propose at that time.

5. For purposes of any Southwestern Bell request for interLATA relief under the Federal Telecommunications Act of 1996, if the rates set forth on Attachment "A" are approved by the Commission and for so long as such rates are contained in the resulting effective interconnection agreement between Southwestern Bell and ALLTEL, ALLTEL stipulates that the rates set forth on Attachment "A" are fair and reasonable and satisfy the costing and pricing standards contained in

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**Section 252 of the Federal Telecommunications Act of 1996.**

The Federal Act requires state Commissions to sit as arbitrators and to resolve each and every outstanding issue between carriers in a manner that meets the requirements of 47 U.S.C. §251. In resolving the open issues in an arbitration, the 1996 Act provides that a state commission shall:

(1) ensure that such resolution and conditions meet the requirements of Section 251, including the regulations prescribed by the [Federal Communications] Commission pursuant to Section 251;

(2) establish any rates for interconnection, services, or network elements according to subsection (d);

(3) provide a schedule for implementation of the terms and conditions by the parties to the agreement.

(d) Pricing Standards.-

(1) INTERCONNECTION AND NETWORK ELEMENT CHARGES.-

Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (c)(2) of section 251, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section-

(A) shall be-

(i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and

(ii) nondiscriminatory, and

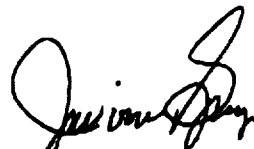
(B) may include a reasonable profit.

Based upon the evidence presented in this proceeding and the statements of the parties in the Resolution Proposal and the Cost/Pricing Stipulation, the Commission hereby approves the Resolution Proposal pursuant to Sections 251 and 252 of the 1996 Act. Accordingly, the parties are directed to negotiate the language of the Interconnection Agreement based upon the decisions in this Order and submit the revised Interconnection Agreement for final approval within thirty (30) days of this Order.

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BY ORDER OF THE COMMISSION.

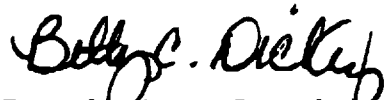
This 3<sup>rd</sup> day of May, 1999.



Jim von Gremp, Chairman



Sam I. Bratton, Jr., Commissioner



Betty C. Dickey, Commissioner



Jan Sanders  
Secretary of the Commission